

**COURT OF APPEALS
DECISION
DATED AND RELEASED**

October 5, 1995

A party may file with the Supreme Court a petition to review an adverse decision by the Court of Appeals. *See* § 808.10 and RULE 809.62, STATS.

NOTICE

This opinion is subject to further editing. If published, the official version will appear in the bound volume of the Official Reports.

No. 94-1945

STATE OF WISCONSIN

**IN COURT OF APPEALS
DISTRICT IV**

**ANNETTE SLOCUM, JOHN SLOCUM,
ALEXANDER SLOCUM and STEVEN SLOCUM,**

Petitioners-Respondents,

v.

**ROBERT PARSLEY and
NANCY PARSLEY,**

Respondents-Appellants.

APPEAL from an order of the circuit court for Dane County: ANGELA B. BARTELL, Judge. *Affirmed in part; reversed in part and cause remanded with directions.*

Before Dykman, Sundby, and Vergeront, JJ.

PER CURIAM. Robert and Nancy Parsley appeal from an order imposing a harassment injunction against them for the benefit of Annette, John, Alexander and Steven Slocum. We conclude that the evidence does not support an injunction against Robert and that the injunction against Nancy

must be narrowed in scope. We therefore affirm in part, reverse in part and remand for entry of an amended order.

The Parsleys and Slocums are neighbors who feuded over a period of time about utility lines buried on their property line. The dispute culminated in May 1994 with an incident in which Nancy came on the Slocum property and grabbed or pushed Annette in front of her sons, Alexander and Steven. Annette called the police, who issued Nancy a citation for disorderly conduct. When the Parsleys received the citation several days later, Robert confronted Annette on her porch and an argument ensued. The court found that in the course of the argument Robert stated "[if] you want to have a war, we will have a war in court." Again, Annette's sons witnessed the incident.

The court found that the assault and Robert's subsequent statement satisfied the grounds for a harassment injunction. That injunction restrained the Parsleys from "going on the real estate of petitioners ... or from contacting petitioners directly regarding utility services. [The Parsleys] shall not verbally or physically assault petitioners at any time." The court imposed the injunction until June 1996.

Pursuant to § 813.125(4), STATS., the court may enjoin the harassment of a person if, after a hearing, the court finds reasonable grounds to believe that the alleged harasser has violated § 947.013, STATS. Section 947.013 imposes a penalty on one who, with intent to harass or intimidate, physically assaults another, or engages in a course of conduct or repeatedly commits acts which harass or intimidate without legitimate purpose. Section 947.013(1m).

The evidence supports an injunction against Nancy for Annette's benefit. It is undisputed that Nancy assaulted Annette after demanding that she stay away from their joint property line. The court could reasonably infer that the assault occurred with intent to harass or intimidate Annette in the course of the underlying dispute. However, there is no evidence that Nancy attempted to harass or intimidate the children. They were merely witnesses to the incident. Additionally, the court made no finding that Nancy committed any acts against John.

The evidence does not support an injunction against Robert. It was entered solely on the basis of his statement that there would be war if Annette wanted one. That statement was not specific enough to constitute a threat of physical assault. While it may have been intended to harass or intimidate Annette, that one statement does not constitute a course of conduct or a repeatedly committed act. Therefore, it cannot form the basis for a § 813.125(4), STATS., injunction.

The injunction against Robert must be vacated and the injunction against Nancy modified to remove all provisions other than enjoining her from physically assaulting Annette. We remand the case for that purpose.

By the Court.--Order affirmed in part; reversed in part and cause remanded with directions. No costs to either party.

This opinion will not be published. See RULE 809.23(1)(b)5, STATS.